

HOUSE BILL No. 1619

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1.

Synopsis: Property tax rates and levies. Makes conforming amendments to the 2006 law that allows the county auditor to reduce a taxing unit's assessed value used to set property tax rates for the following year to enable the unit to absorb the effects of reduced property tax collections expected to result from successful assessed value appeals. Sets a civil taxing unit's maximum property tax levy for property taxes payable in 2008 at the amount that would have applied for taxes payable in 2007 if the 2004 change that eliminated unused maximum levy capacity from the determination of the next year's maximum levy had not been enacted, and reverses that change for future years. Corrects cross-references.

Effective: Upon passage.

McClain, Thompson

January 23, 2007, read first time and referred to Committee on Ways and Means.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1619

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-1-3, AS AMENDED BY P.L.2-2006,
2 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 3. (a) Except as provided in subsection (b),
4 "assessed value" or "assessed valuation" means an amount equal to:

5 (1) for assessment dates before March 1, 2001, thirty-three and
6 one-third percent (33 1/3%) of the true tax value of property; and

7 (2) for assessment dates after February 28, 2001, the true tax
8 value of property.

9 (b) For purposes of calculating a budget, rate, or levy under
10 IC 6-1.1-17, IC 6-1.1-18, IC 6-1.1-18.5, ~~IC 6-1.1-20~~, IC 20-45-3,
11 ~~IC 20-46-4~~, ~~IC 20-46-5~~, and IC 20-46-6, "assessed value" or "assessed
12 valuation" does not include **either of the following**:

13 (1) The assessed value of tangible property excluded and kept
14 separately on a tax duplicate by a county auditor under
15 ~~IC 6-1.1-17-0.5~~; **IC 6-1.1-17-0.5(b)**.

16 (2) **The amount of a reduction to a taxing unit's assessed value**
17 **made by:**



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1 (A) the county auditor under IC 6-1.1-17-0.5(d); and
 2 (B) the department of local government finance under
 3 IC 6-1.1-17-8.5.

4 SECTION 2. IC 6-1.1-15-10 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) If a petition
 6 for review to any board or a proceeding for judicial review in the tax
 7 court regarding an assessment or increase in assessment is pending, the
 8 taxes resulting from the assessment or increase in assessment are,
 9 notwithstanding the provisions of IC 6-1.1-22-9, not due until after the
 10 petition for review, or the proceeding for judicial review, is finally
 11 adjudicated and the assessment or increase in assessment is finally
 12 determined. However, even though a petition for review or a
 13 proceeding for judicial review is pending, the taxpayer shall pay taxes
 14 on the tangible property when the property tax installments come due,
 15 unless the collection of the taxes is stayed under IC 4-21.5-5-9 pending
 16 a final determination in the proceeding for judicial review. The amount
 17 of taxes which the taxpayer is required to pay, pending the final
 18 determination of the assessment or increase in assessment, shall be
 19 based on:

20 (1) the assessed value reported by the taxpayer on the taxpayer's
 21 personal property return if a personal property assessment, or an
 22 increase in such an assessment, is involved; or

23 (2) an amount based on the immediately preceding year's
 24 assessment of real property if an assessment, or increase in
 25 assessment, of real property is involved.

26 (b) If the petition for review or the proceeding for judicial review is
 27 not finally determined by the last installment date for the taxes, the
 28 taxpayer, upon showing of cause by a taxing official or at the tax court's
 29 discretion, may be required to post a bond or provide other security in
 30 an amount not to exceed the taxes resulting from the contested
 31 assessment or increase in assessment.

32 (c) Each county auditor shall keep separate on the tax duplicate a
 33 record of that portion of the assessed value of property that is described
 34 in IC 6-1.1-17-0.5(b) or IC 6-1.1-17-0.5(d). When establishing rates
 35 and calculating state school support, the department of local
 36 government finance shall exclude from assessed value in the county the
 37 assessed value of property kept separate on the tax duplicate by the
 38 county auditor under IC 6-1.1-17-0.5(b) or IC 6-1.1-17-0.5(d).

39 SECTION 3. IC 6-1.1-17-3, AS AMENDED BY P.L.162-2006,
 40 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 UPON PASSAGE]: Sec. 3. (a) The proper officers of a political
 42 subdivision shall formulate its estimated budget and its proposed tax

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rate and tax levy on the form prescribed by the department of local government finance and approved by the state board of accounts. The political subdivision shall give notice by publication to taxpayers of:

- (1) the estimated budget;
- (2) the estimated maximum permissible levy;
- (3) the current and proposed tax levies of each fund;
- (4) the amount of the political subdivision's assessed valuation reduction determined under section 0.5(d) of this chapter; and**
- ~~(4)~~ **(5) the amounts of excessive levy appeals to be requested.**

In the notice, the political subdivision shall also state the time and place at which a public hearing will be held on these items. The notice shall be published twice in accordance with IC 5-3-1 with the first publication at least ten (10) days before the date fixed for the public hearing. Beginning in 2009, the duties required by this subsection must be completed before August 10 of the calendar year. A political subdivision shall provide the estimated budget and levy information required for the notice under subsection (b) to the county auditor on the schedule determined by the department of local government finance.

(b) Beginning in 2009, before August 10 of a calendar year, the county auditor shall mail to the last known address of each person liable for any property taxes, as shown on the tax duplicate, or to the last known address of the most recent owner shown in the transfer book, a statement that includes:

- (1) the assessed valuation as of the assessment date in the current calendar year of tangible property on which the person will be liable for property taxes first due and payable in the immediately succeeding calendar year and notice to the person of the opportunity to appeal the assessed valuation under IC 6-1.1-15-1(b);
- (2) the amount of property taxes for which the person will be liable to each political subdivision on the tangible property for taxes first due and payable in the immediately succeeding calendar year, taking into account all factors that affect that liability, including:
 - (A) the estimated budget and proposed tax rate and tax levy formulated by the political subdivision under subsection (a);
 - (B) any deductions or exemptions that apply to the assessed valuation of the tangible property;
 - (C) any credits that apply in the determination of the tax liability; and
 - (D) the county auditor's best estimate of the effects on the tax liability that might result from actions of the county board of

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tax adjustment or the department of local government finance;
 (3) a prominently displayed notation that:

(A) the estimate under subdivision (2) is based on the best information available at the time the statement is mailed; and

(B) based on various factors, including potential actions by the county board of tax adjustment or the department of local government finance, it is possible that the tax liability as finally determined will differ substantially from the estimate;

(4) comparative information showing the amount of property taxes for which the person is liable to each political subdivision on the tangible property for taxes first due and payable in the current year; and

(5) the date, time, and place at which the political subdivision will hold a public hearing on the political subdivision's estimated budget and proposed tax rate and tax levy as required under subsection (a).

(c) The department of local government finance shall:

(1) prescribe a form for; and

(2) provide assistance to county auditors in preparing; statements under subsection (b). Mailing the statement described in subsection (b) to a mortgagee maintaining an escrow account for a person who is liable for any property taxes shall not be construed as compliance with subsection (b).

(d) The board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5-2 (before its repeal) may conduct the public hearing required under subsection (a):

(1) in any county of the solid waste management district; and

(2) in accordance with the annual notice of meetings published under IC 13-21-5-2.

(e) The trustee of each township in the county shall estimate the amount necessary to meet the cost of township assistance in the township for the ensuing calendar year. The township board shall adopt with the township budget a tax rate sufficient to meet the estimated cost of township assistance. The taxes collected as a result of the tax rate adopted under this subsection are credited to the township assistance fund.

(f) A county shall adopt with the county budget and the department of local government finance shall certify under section 16 of this chapter a tax rate sufficient to raise the levy necessary to pay the following:

(1) The cost of child services (as defined in IC 12-19-7-1) of the county payable from the family and children's fund.

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(2) The cost of children's psychiatric residential treatment services (as defined in IC 12-19-7.5-1) of the county payable from the children's psychiatric residential treatment services fund.

A budget, tax rate, or tax levy adopted by a county fiscal body or approved or modified by a county board of tax adjustment that is less than the levy necessary to pay the costs described in subdivision (1) or (2) shall not be treated as a final budget, tax rate, or tax levy under section 11 of this chapter.

SECTION 4. IC 6-1.1-17-16, AS AMENDED BY P.L.2-2006, SECTION 38, AS AMENDED BY P.L.154-2006, SECTION 44, AND AS AMENDED BY P.L.169-2006, SECTION 9, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) Subject to the limitations and requirements prescribed in this section, the department of local government finance may revise, reduce, or increase a political subdivision's budget by fund, tax rate, or tax levy which the department reviews under section 8 or 10 of this chapter.

(b) Subject to the limitations and requirements prescribed in this section, the department of local government finance may review, revise, reduce, or increase the budget by fund, tax rate, or tax levy of any of the political subdivisions whose tax rates compose the aggregate tax rate within a political subdivision whose budget, tax rate, or tax levy is the subject of an appeal initiated under this chapter.

(c) Except as provided in subsections (j) and (k), before the department of local government finance reviews, revises, reduces, or increases a political subdivision's budget by fund, tax rate, or tax levy under this section, the department must hold a public hearing on the budget, tax rate, and tax levy. The department of local government finance shall hold the hearing in the county in which the political subdivision is located. The department of local government finance may consider the budgets by fund, tax rates, and tax levies of several political subdivisions at the same public hearing. At least five (5) days before the date fixed for a public hearing, the department of local government finance shall give notice of the time and place of the hearing and of the budgets by fund, levies, and tax rates to be considered at the hearing. The department of local government finance shall publish the notice in two (2) newspapers of general circulation published in the county. However, if only one (1) newspaper of general circulation is published in the county, the department of local government finance shall publish the notice in that newspaper.

(d) Except as provided in subsection (i), ~~IC 6-1.1-19~~, IC 20-45, IC 20-46, or IC 6-1.1-18.5, the department of local government finance

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may not increase a political subdivision's budget by fund, tax rate, or tax levy to an amount which exceeds the amount originally fixed by the political subdivision. *However, if the department of local government finance determines that IC 5-3-1-2.3(b) applies to the tax rate, tax levy, or budget of the political subdivision, the maximum amount by which the department may increase the tax rate, tax levy, or budget is the amount originally fixed by the political subdivision, and not the amount that was incorrectly published or omitted in the notice described in IC 5-3-1-2.3(b).* The department of local government finance shall give the political subdivision written notification specifying any revision, reduction, or increase the department proposes in a political subdivision's tax levy or tax rate. The political subdivision has ~~one (1) week~~ two (2) weeks from the date the political subdivision receives the notice to provide a written response to the department of local government finance's Indianapolis office. ~~specifying how to make the required reductions in the amount budgeted by fund.~~ The response may include budget reductions, reallocation of levies, a revision in the amount of miscellaneous revenues, and further review of any other item about which, in the view of the political subdivision, the department is in error. The department of local government finance shall ~~make reductions~~ consider the adjustments as specified in the political subdivision's response if the response is provided as required by this subsection and ~~sufficiently specifies all necessary reductions.~~ ~~The department of local government finance may make a revision, a reduction, or an increase in a political subdivision's budget only by fund; shall deliver a final decision to the political subdivision.~~

(e) The department of local government finance may not approve a levy for lease payments by a city, town, county, library, or school corporation if the lease payments are payable to a building corporation for use by the building corporation for debt service on bonds and if:

- (1) no bonds of the building corporation are outstanding; or
- (2) the building corporation has enough legally available funds on hand to redeem all outstanding bonds payable from the particular lease rental levy requested.

(f) The department of local government finance shall certify its action to:

- (1) the county auditor;
- (2) the political subdivision if the department acts pursuant to an appeal initiated by the political subdivision;
- (3) the taxpayer that initiated an appeal under section 13 of this chapter, or, if the appeal was initiated by multiple taxpayers, the first ten (10) taxpayers whose names appear on a ~~petition filed~~

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~~under section 13 of this chapter, the statement filed to initiate the appeal;~~ and

(4) a taxpayer that owns property that represents at least ten percent (10%) of the taxable assessed valuation in the political subdivision.

(g) The following may petition for judicial review of the final determination of the department of local government finance under subsection (f):

(1) If the department acts under an appeal initiated by a political subdivision, the political subdivision.

(2) If the department:

(A) acts under an appeal initiated by *one (1) or more* taxpayers under section 13 of this chapter; *or*

(B) *fails to act on the appeal before the department certifies its action under subsection (f);*

a taxpayer who signed the ~~petition under that section~~ statement filed to initiate the appeal.

(3) If the department acts under an appeal initiated by the county auditor under section 14 of this chapter, the county auditor.

(4) A taxpayer that owns property that represents at least ten percent (10%) of the taxable assessed valuation in the political subdivision.

The petition must be filed in the tax court not more than forty-five (45) days after the department certifies its action under subsection (f).

(h) The department of local government finance is expressly directed to complete the duties assigned to it under this section not later than February 15th of each year for taxes to be collected during that year.

(i) Subject to the provisions of all applicable statutes, the department of local government finance may increase a political subdivision's tax levy to an amount that exceeds the amount originally fixed by the political subdivision if the increase: ~~is:~~

(1) ~~is~~ requested in writing by the officers of the political subdivision;

(2) either:

(A) ~~is~~ based on information first obtained by the political subdivision after the public hearing under section 3 of this chapter; or

(B) results from an inadvertent mathematical error made in determining the levy; and

(3) ~~is~~ published by the political subdivision according to a notice provided by the department.

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(j) The department of local government finance shall annually review the budget by fund of each school corporation not later than April 1. The department of local government finance shall give the school corporation written notification specifying any revision, reduction, or increase the department proposes in the school corporation's budget by fund. A public hearing is not required in connection with this review of the budget.

(k) The department of local government finance may hold a hearing under subsection (c) only if the notice required in ~~IC 6-1.1-17-12~~ **section 12 of this chapter** is published at least ten (10) days before the date of the hearing.

(l) The department of local government finance may not certify a taxing unit's budget, tax rate, or tax levy if the department of local government finance determines that the county auditor has reduced the taxing unit's assessed valuation by more than the amount authorized under section 0.5(e) or 8.5(b) of this chapter.

SECTION 5. IC 6-1.1-18.5-1, AS AMENDED BY P.L.154-2006, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter:

"Ad valorem property tax levy for an ensuing calendar year" means the total property taxes imposed by a civil taxing unit for current property taxes collectible in that ensuing calendar year.

"Adopting county" means any county in which the county adjusted gross income tax is in effect.

"Civil taxing unit" means any taxing unit except a school corporation.

"Maximum permissible ad valorem property tax levy for the preceding calendar year" means the greater of:

(1) the remainder of:

~~(A) the civil taxing unit's maximum permissible ad valorem property tax levy for the calendar year immediately preceding the ensuing calendar year, as that levy was determined under section 3 of this chapter; minus~~

~~(B) one-half (1/2) of the remainder of:~~

~~(i) the civil taxing unit's maximum permissible ad valorem property tax levy referred to in clause (A); minus~~

~~(ii) the civil taxing unit's ad valorem property tax levy for the calendar year immediately preceding the ensuing calendar year referred to in subdivision (2); or~~

(2) the civil taxing unit's ad valorem property tax levy for the calendar year immediately preceding the ensuing calendar year, as that levy was determined by the department of local

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government finance in fixing the civil taxing unit's budget, levy, and rate for that preceding calendar year under IC 6-1.1-17, and after eliminating the effects of temporary excessive levy appeals and temporary adjustments made to the working maximum levy for the calendar year immediately preceding the ensuing calendar year, as determined by the department of local government finance.

"Taxable property" means all tangible property that is subject to the tax imposed by this article and is not exempt from the tax under IC 6-1.1-10 or any other law. For purposes of sections 2 and section 3 of this chapter, the term "taxable property" is further defined in section 6 of this chapter.

"Unadjusted assessed value" means the assessed value of a civil taxing unit as determined by local assessing officials and the department of local government finance in a particular calendar year before the application of an annual adjustment under IC 6-1.1-4-4.5 for that particular calendar year or any calendar year since the last general reassessment preceding the particular calendar year.

SECTION 6. IC 6-1.1-18.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) For purposes of STEP TWO of section 2(a) of this chapter and STEP TWO of section 2(b) of this chapter, the civil taxing unit's taxable property includes all taxable property located in the geographic area subject to the civil taxing unit's ad valorem property tax levy for the ensuing calendar year, regardless of whether that property was located in the geographic area subject to the civil taxing unit's ad valorem property tax levy in the calendar years for which the computation is made.

(b) For purposes of STEP TWO of section 2(a) of this chapter, STEP THREE of section 3(a) of this chapter and STEP THREE of section 3(b) of this chapter, the assessed value of taxable property is the assessed value of that property as determined by the department of local government finance in fixing the civil taxing unit's budget, levy, and rate for the applicable calendar year, excluding deductions allowed under IC 6-1.1-12 or IC 6-1.1-12.1.

SECTION 7. [EFFECTIVE UPON PASSAGE] (a) For purposes of this SECTION:

(1) "civil taxing unit" has the meaning set forth in IC 6-1.1-18.5-1; and

(2) "maximum levy" refers to the maximum permissible ad valorem property tax levy determined under IC 6-1.1-18.5-3.

(b) For property taxes first due and payable in 2008, the maximum levy of a civil taxing unit is the maximum levy of the unit

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1 for taxes first due and payable in 2007 in the amount that would
 2 have been determined under IC 6-1.1-18.5 if the amendments to
 3 IC 6-1.1-18.5 in P.L.1-2004 had not applied for taxes first due and
 4 payable in 2004, 2005, 2006, and 2007.

5 (c) For property taxes first due and payable in 2009, the
 6 maximum levy of a civil taxing unit is determined using the
 7 maximum levy determined under subsection (b) as the unit's
 8 maximum levy for the preceding calendar year in STEP ONE of
 9 IC 6-1.1-18.5-3(a) or STEP ONE of IC 6-1.1-18.5-3(b).

10 (d) This SECTION expires January 1, 2010.

11 SECTION 8. [EFFECTIVE UPON PASSAGE] The following, all
 12 as amended by this act, apply only to property taxes first due and
 13 payable after December 31, 2007:

14 (1) IC 6-1.1-1-3.

15 (2) IC 6-1.1-15-10.

16 (3) IC 6-1.1-17-3.

17 (4) IC 6-1.1-17-16.

18 (5) IC 6-1.1-18.5-1.

19 (6) IC 6-1.1-18.5-6.

20 SECTION 9. An emergency is declared for this act.

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